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Legal Services Too Crucial to Take Cut

Gerry L. Alexander, Chief justice

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On Feb. 14, Gov. Gary Locke issued an order cutting nearly half the annual state funding for civil legal services - \$2.4 million - from the state budget. Already strained to the breaking point, this cut will devastate the civil equal justice delivery system in our state.

For the poor and vulnerable, the justice system represents the place of last resort - the place where essential rights are enforced and defended. For thousands upon thousands who need protection from domestic abuse, wrongful eviction or the improper denial or termination of essential governmental assistance, our state's civil legal services programs (pro bono legal aid) hold the key.

If this budget cut is left unmitigated, the governor's action threatens irreparable harm to truly effective and important legal services programs. It is critical that the Legislature correct this situation by replacing all or most of the amount cut.

I was a Superior Court judge in Thurston County in 1980. Before me was a man with a toothless smile. As I remember it, the state Department of Social and Health Services had agreed to pay to pull his teeth out but, due to a budget crisis, the department decided that it would not pay for the dentures that he needed. The man had no money and could not afford to hire a lawyer. However, a legal services lawyer from Spokane filed a lawsuit challenging the department's refusal to pay for the man's dentures. I decided that the department had acted illegally. The man got his teeth. And in my view, justice was served.

In 1980, there were three primary legal services programs in our state. Together they had a force of 130 attorneys and the responsibility to serve the civil legal needs of about 550,000 poor and vulnerable people throughout the state. There were legal services offices in 24 locations from Walla Walla to Port Angeles, from Clarkston and Colville to Chehalis and Longview, from Seattle to Spokane. In those days, the poor had a place to go, and they knew it.

The picture is much different today. The legal services programs that existed in 1980 are gone, gutted by two decades of budget cuts, stagnant funding and increasing costs. In their place we have two statewide providers of direct legal assistance to poor and vulnerable people. They operate with a third fewer attorneys and must try to meet the needs of a poverty population that has doubled to nearly 1.2 million. While these attorneys are joined by thousands of volunteer attorneys who last year contributed more than 27,000 hours of free legal assistance, civil justice is still unavailable for thousands who need it. The \$2.4 million cut will cause irreversible damage.

Most of us have no idea how many families and individuals are barely surviving. They are victims of domestic violence, single moms trying to navigate the regulatory maze that strangles their efforts to move from dependency to self-sufficiency, foster children who are maltreated, migrant and seasonal farm workers who are not paid or are forced to work in unsafe and unsanitary conditions. There are so many needing help, each with a compelling and sometimes life-and-death story. Until now, the legal services system has been able to support only an estimated 20 percent of those who need our help. It is unfathomable to think about the impact of further cuts.

It is obvious that every social and human service budget will suffer from very painful cuts as a result of the current budget crisis. But legal services are not just social programs, they are justice programs.

Legal service programs are the only solution for thousands of disenfranchised Washingtonians who need to assert and enforce their rights on matters of sheer survival. And, given the weak economy and the forthcoming budget cuts, these people need more help right now, not less.

Every day thousands of children in our state recite the Pledge of Allegiance. The pledge ends with an affirmation of the essential promise of our democracy - "with liberty and justice for all." The U.S. Supreme Court building is carved with the words "Equal Justice Under Law." People in every corner of the world fight and die for the American ideal of equal justice.

But does equal justice exist only for those with means to petition the courts? Can equal justice exist where the laws cannot be enforced because the poor cannot secure counsel? Each time a poor person is denied access to the justice system - to assert or defend important legal rights - a small piece of our democracy dies.

In November 2001, the Washington State Supreme Court created the Task Force on Civil Equal Justice Funding, with 19 representatives of the Judiciary, the Legislature and the governor's office. This task force is committed to solving the problem of adequately funding access to civil justice in this state. Formed three months before anyone knew the depth of the state budget cuts, we admittedly are alarmed. How can we resuscitate an already sick system while enduring even deeper cuts?

The Legislature needs to do the right thing for the people of this state. It must act to replace all or most of the \$2.4 million cut from legal services. It is our duty as a democratic society - and as compassionate leaders in the state of Washington - to make sure that we really do ensure justice for all.